

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

NO. 5:18-CR-00452-1-FL

UNITED STATES OF AMERICA

Plaintiff

v.

LEONID ISAAKOVICH TEYF,

Defendant

MOTION TO CONTINUE TRIAL

Defendant Leonid Isaakovich Teyf (“Mr. Teyf”), through counsel, respectfully moves this Court for an order continuing the trial of counts 27 – 29 in this matter currently scheduled for February 16, 2021 until March 29, 2021 pursuant to this Court’s prior Standing Order dated June 18, 2020 governing criminal proceedings at the United States Courthouse at New Bern, North Carolina in connection with the COVID-19 pandemic. Trial on the remaining counts in Mr. Teyf’s indictment is currently set for March 29, 2021.

Additionally, counsel have been engaged in extensive plea negotiations and have substantial expectations that a plea agreement will be reached that would resolve all charges against Mr. Teyf in both trials. Defense counsel has conferred with Government counsel who is expected to shortly file a request for a status conference to more fully apprise the Court in connection with the plea negotiations and trial continuance in that regard, although the Government generally opposes a continuance based upon the Court’s prior Standing Order related to the COVID-19 pandemic.

In support of this motion, Defendant incorporates the grounds set forth in his prior motions to continue (DE 587 and 593) and further shows the following:

1. Defendant is and remains a “vulnerable person” pursuant to the Court’s Standing Order governing jury proceedings at the United States Courthouse at New Bern, North Carolina, which states that “[d]ue to increased risk of severe illness from COVID-19, the following vulnerable individuals (including counsel) are not required to appear for a hearing in the courthouse” (DE 586), as set forth in DE 587 and 593. Specifically, as confirmed by his medical records, Mr. Teyf, aged 59, is a vulnerable individual identified in the Standing Order who suffers from numerous physical and medical conditions, including Type II diabetes, chronic gastritis, arterial hypertension, obesity, and gastroesophageal reflux disease. *See* DE 103, Ex. 10; 1/22/19 Tr. at 44:4-16, 45:8-14 (“Mr. Teyf has diabetes; he has an irregular heartbeat; he has chronic gastritis from a hiatal hernia; he has a variety of other ailments, including injuries from an accident that left him with significant muscular and bone issues that require him to do certain kinds of exercises or he suffers pain and is unable to sleep.”). Additionally, as previously indicated, the Government does not dispute that Defendant has certain health issues and is within an age bracket that is more susceptible to the COVID-19 strain.

2. Moreover, counsel has been informed by the Albemarle District Jail that it has recently experienced several COVID-19 cases among inmates, including in Mr. Teyf’s designated area, requiring inmates to be subjected to quarantine. Neither Mr. Teyf nor his counsel have been vaccinated, and due to Mr. Teyf’s vulnerability to severe illness based upon his underlying medical conditions, his counsel are equally concerned with the unacceptable danger and harm that otherwise essential personal meetings could cause.

3. On January 27, 2021, pursuant to Executive Order No. 189, North Carolina’s Governor recently extended restrictions on gatherings designed to prevent the spread of COVID-

19 until February 28, 2021 due to the continuing dangers of the pandemic. *See* <https://files.nc.gov/governor/documents/files/EO189-Further-Extension-of-Stay-at-Home-Order.pdf>; <https://files.nc.gov/governor/documents/files/EO189-Further-Extension-of-Stay-at-Home-Order.pdf>. Of North Carolina's 100 counties, between January 3 and January 16, 2021, 99 of the 100 counties were experiencing "substantial (orange)" or "critical (red)" COVID-19 community spread. *Id.* On February 3, 2021, North Carolina reported the highest number of COVID deaths in a day since the pandemic began, and "January was the deadliest month of the pandemic." *See* <https://www.newsobserver.com/news/coronavirus/article248976560.html>. And, according to an analysis of case and testing data, Craven County and surrounding counties are considered "extremely high risk" for contracting COVID-19. <https://www.nytimes.com/interactive/2021/us/craven-north-carolina-covid-cases.html>. In short, unfortunately, the COVID-19 situation remains substantially worse than when the Court continued the trial by Order of August 24, 2020 (DE 598).

4. Restrictions related to the pandemic have also continued to limit counsel's ability to meet with Mr. Teyf. As a result, a recent attorney visit by local counsel was denied for this reason. Additionally, Mr. Teyf's lead counsel based in New York also continues to have significant limitations on his ability to have personal meetings with Mr. Teyf due to travel and quarantine restrictions imposed by Executive Order of New York's Governor which continue to trigger mandatory quarantines for travelers from North Carolina to New York. The quarantine period upon return to New York impairs necessary trial preparation in the office. Indeed, counsel has been out of their offices in New York since mid-March, and counsel's firm, Moses & Singer LLP, like almost all other businesses in the city, continues to operate remotely and no members of the staff have returned to the offices. Notwithstanding interim phasing in New York, the reality is

that office buildings remain essentially vacant as businesses continue to operate remotely and not require employees to return to their offices.

5. Defendant remains in pretrial detention at the Albemarle District Jail. There is no prejudice to the Government from the requested continuance which would reschedule the February 16, 2019 trial to the same date already set for trial on the remaining counts in the indictment.

6. Defendant consents to the exclusion of the period of delay caused by the requested continuance from the calculations under the Speedy Trial Act.

7. The Government's position on a COVID continuance is as follows:

In its position on Defendant's last requested continuance, the Government forecast that on conditions then in existence, trial could be safely accomplished for this Defendant at the new setting. As forecast, this is now the Government's position. Insofar as the basis for a continuance is predicated on the Defendant's raised concerns relating to COVID-19, the Government objects. An assessment of factors should be used to determine when the Defendant's concerns are outweighed and trial should proceed. Appropriate factors include (but are not limited to): measures ready to be taken by the Court and counsel to mitigate risks; whether other trials have taken place without incident in the Eastern District of North Carolina; the present data available as pertains to the areas in which the Defendant will be housed; and the North Carolina Governor's implementation of the U.S. Government-recommended phased approach to activity and what phase North Carolina is in. All of the above have been implemented with success to date. COVID-19 does not present sufficient reason to delay this trial further.

Respectfully submitted, this the 4th day of February, 2021.

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February, 2021, I electronically filed the foregoing **MOTION TO CONTINUE TRIAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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